

ORAL ARGUMENT NOT YET SCHEDULED

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS, d/b/a ALLIANCE FOR CHEMICAL DISTRIBUTION; AMERICAN CHEMISTRY COUNCIL; AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS; AMERICAN PETROLEUM INSTITUTE; CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA; and SOCIETY OF CHEMICAL MANUFACTURERS & AFFILIATES,

Case No. 24-1127
(consolidated with
Case No. 24-1125)

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

PETITIONERS' NONBINDING STATEMENT OF ISSUES

Pursuant to this Court's order of May 14, 2024, petitioners National Association of Chemical Distributors, d/b/a Alliance for Chemical Distribution, American Chemistry Council, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, Chamber of Commerce of the United States of America, and Society of Chemical

Manufacturers & Affiliates submit this Nonbinding Statement of Issues in the consolidated cases challenging the final action of the United States Environmental Protection Agency (“EPA”), entitled *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention*, published at 89 Fed. Reg. 17,622 (March 11, 2024) (“Final Rule”).

Without waiving any right to raise additional issues, petitioners submit that they intend to raise the following issues:

1. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by imposing third-party audit requirements and by requiring reporting to the audit committee of the Board of Directors of an owner or operator, or other comparable committee or individual;
2. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by mandating a needlessly burdensome safer technology and alternatives analysis (“STAA”) and by requiring that certain covered facilities implement measures identified during the STAA;

3. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority with regard to the applicability of new recognized and generally accepted good engineering practices (“RAGAGEP”) by imposing a RAGAGEP gap analysis; and

4. Whether EPA acted arbitrarily, capriciously, and not in accordance with law or exceeded its statutory authority by imposing onerous information-availability requirements, which unreasonably compel disclosure of sensitive information.

Dated: June 13, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2024, I caused the foregoing Nonbinding Statement of Issues to be served by electronic means through the Court's CM/ECF system, on all counsel of record.

Dated: June 13, 2024

Respectfully submitted,

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